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LOK SABHA

The following Bills were introduced in Lok Sabha on the 8th June, 1962:—

BILL No. 49 OF 1962

A Bill further to amend the Advocates Act, 1961.

BE it enacted by Parliament in the Thirteenth Year of the Republic of India as follows:—

1. This Act may be called the Advocates (Second Amendment) Short title, Act, 1962.

25 of 1961.

5 2. In sub-section (1) of section 24 of the Advocates Act, 1961, for the words "appointed day", wherever they occur, the figures, letters and words "31st day of December, 1961" shall be substituted and shall be deemed always to have been substituted. Amendment of section 24.

STATEMENT OF OBJECTS AND REASONS

Under section 24(1) of the Advocates Act, 1961, in order to be admitted as an advocate on a State roll, a person must have obtained a degree in law and undergone a course of training, and passed an examination, prescribed by the State Bar Council. Under the proviso to that section, however, persons who have obtained their degree in law from any university in India before the appointed day, that is, the 1st December, 1961, when section 24 was brought into force, are entitled to be admitted as advocates even without having undergone the prescribed training and passed the prescribed examination as aforesaid. The final LL. B. examinations of the three Universities in the State of Maharashtra, namely, Poona, Marathwada and Bombay were held in October, 1961. The results of the first two Universities were published in November, 1961. Accordingly, the students of those two Universities who passed the LL. B. examination held in October, 1961, were entitled to be enrolled as advocates. But the result of the LL. B. examination of the Bombay University was published on the 12th December, 1961, the consequence being that the students of that University who came out successful in the LL. B. examination are not eligible to be enrolled as advocates without the prescribed training and examination. This has caused unintended hardships on, and discrimination against, the students of Bombay. It is accordingly proposed to amend suitably sub-section (1) of section 24 of the Advocates Act, 1961, so as to provide that those who passed their final law examination before the 31st December, 1961, would be entitled to the benefit conferred by the proviso to that sub-section.

NEW DELHI;
The 29th May, 1962.

A. K. SEN.

BILL No. 46 OF 1962

A Bill to provide aid to the political sufferers.

BE it enacted by Parliament in the Thirteenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Political Sufferers Aid Act, Short title and extent.
1962.

5 (2) It extends to the whole of India except the State of Jammu and Kashmir.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "aid" means any of the different forms of aid which are admissible under this Act;

10 (b) "dependent" means any of the following relations of a deceased political sufferer, namely, a wife, a destitute parent, a minor son or son's son, a brother, and unmarried daughter or sister and a widowed daughter-in-law as well as minor children of a predeceased son;

15 (c) "political movement" means any movement, violent or non-violent,—

(i) for the achievement of independence of India, or

(ii) for the achievement of responsible Government in any of the erstwhile native states, or

(iii) for the amelioration of the conditions of the tenants or the backward classes including Harijans and Adivasis, or

(iv) which may be declared by the Central Government by notification in the Official Gazette to be a political movement for the purpose of this Act; 5

(d) "political sufferer"—

(i) means a person who, on account of his participation in a political movement, may have, before the 15th of August, 1947, been subjected to any sufferings hereinafter 10 enumerated; and

(ii) includes a relation of such person who may have been subject to any such suffering.

Sufferings.

3. The sufferings, for which aid may be granted under this Act to a political sufferer or in case of his death to his dependents, shall 15 be all or any of the following, namely:—

(a) death caused—

(i) in pursuance of a capital sentence for an offence committed in pursuance or in furtherance of a political movement or otherwise related to such political movement, 20 or

(ii) while in imprisonment as a convict or as an under trial prisoner for any such offence, or

(iii) while in detention on the grounds connected with political movement, or 25

(iv) in consequence of a hunger-strike undertaken during the course of a political movement or while in such imprisonment or detention, or

(v) in consequence of some disease contracted while in such imprisonment or detention or such a hunger-strike, 30 or

(vi) in consequence of any violent fight in a rebellion or mutiny, or

(vii) in consequence of having been shot down or beaten or otherwise tortured while in imprisonment or detention 35 as aforesaid or on account of his activities connected with a political movement, or

(viii) while in exile, externality or remaining underground outside India;

(b) permanent bodily or mental disablement caused in the circumstances specified in clause (a) in India or outside India;

5 (c) loss of or damage to property, whether movable or immovable, caused—

(i) by seizure, confiscation or forfeiture, or

(ii) by imposition and recovery of fine including a collective and punitive fine, or

10 (iii) by attachment or attachment and sale or sale without attachment or sale of property seized, confiscated or forfeited, or

(iv) by loot or plunder, or

15 (v) by any other similar thing or event which the Government may in its discretion decide to have been done or to have taken place, on grounds connected with political movement or as a result of any act or offence related to or arising from or during the course of any action taken for the suppression of such movement under the orders or at the instigation or with the connivance of the British Government or any native state ruler or any officer thereof;

20 (d) loss of Government service by dismissal, discharge, forced resignation or retirement or demotion on grounds connected with political movement or for association with or participation in a political movement directly or indirectly or on the ground of association or relationship with a person
25 participating in a political movement or engaged in any activity connected with political movement;

30 (e) termination of the educational career by expulsion or rustication from any educational institution or examination or withholding of degrees and diplomas on account of participation in a political movement.

4. The forms in which aid may in the discretion of the Central Government be granted under this Act, shall be all or any of the ^{Forms of aid.} following, namely:—

35 (i) pension for life or for a specified period,

(ii) lumpsum grants for taking to some business or industry or otherwise,

(iii) credit facilities for the co-operatives if formed,

(iv) restoration of or compensation for the property confiscated, forfeited, seized, lost or damaged in the circumstances mentioned in clause (c) of section 3 and refund of fines,

(v) re-employment in Government service and grant of proportionate pension or employment of dependents in Government service,

(vi) restoration of degrees and diplomas withheld,

(vii) land grants for settlement as agriculturists,

(viii) free education to the children.

Pensions to dependents of political sufferers.

5. (1) A suitable pension may be granted to the dependents of a political sufferer who has died in any of the circumstances mentioned in clause (a) of section 3 or to dependents of a person who mainly devoted his time in a political movement continuously for a period of not less than 10 years after attaining the age of majority and had been in jail for not less than six months or had to suffer various persecutions in connection with such movement. In such cases pension may be given—

(i) for life to the widow, destitute parents and widowed daughter-in-law of the deceased,

(ii) until attainment of majority to the minor sons and brothers or minor children of a predeceased son of the deceased, and

(iii) until marriage, to his unmarried daughters or sisters:

Provided that no pension shall be granted under this Act unless it is proved to the satisfaction of the Central Government that the said dependents of the deceased or any of them are in financial distress.

(2) In determining the amount of pension under sub-section (1), the following factors shall be taken into consideration, namely,—

(a) the average earnings of the deceased;

(b) the number of dependents;

(c) any other existing source of their livelihood; and

(d) whether all the dependents claiming aid depended solely on the deceased:

Provided that no pension or pensions payable under this Act to the dependents of the deceased political sufferer shall exceed two hundred and fifty rupees per mensem in the aggregate:

Provided further that no pensions shall be paid in case a pensioner gets gainful work or employment.

6. (1) A pension not exceeding two hundred and fifty rupees per mensem in any case shall be paid for life—

Pension to
political
sufferers.

(a) to a political sufferer who has been permanently disabled as stated in clause (b) of section 3;

5 (b) to a person who has mainly devoted his time in a political movement continuously for a period of not less than 10 years after attaining the age of majority, and has been in jail for not less than six months during such period and who is financially in distress.

10 (2) In determining the amount of pension payable under sub-section (1) the following factors shall be taken into consideration, namely,—

(a) the earnings of such political sufferer or pension before such disablement or devotion;

15 (b) the loss in his earning capacity by reason of participating in or as a result of political movement;

(c) the number of persons solely dependent on him for their livelihood; and

(d) any other existing source of livelihood.

Lumpsum
grants and
loans.

20 7. (1) The Central Government may in its discretion allow lumpsum cash grants—

(a) in lieu of any pension or pensions under section 5 or 6 in deserving cases for the purpose of taking up some business or industry or resorting to co-operative farming;

25 Provided that no such grant shall exceed five thousand rupees.

(b) for performing the marriage of an unmarried daughter or sister of a political sufferer in addition to such pension or pensions, payable under clauses (a) and (b) of section 3 or for
30 medical treatment of a political sufferer covered by clause (b) of section 3:

Provided that no such grant shall exceed two thousand rupees,

35 (c) for educational purposes of a political sufferer, in addition to such pension or pensions payable under this Act:

Provided that no such grant shall exceed five hundred rupees.

(2) In lieu of a lumpsum cash grant admissible under sub-section (1) the Central Government may in its discretion advance secured loan not exceeding five thousand rupees or unsecured loan not ex-
40 ceeding three thousand rupees for house building purposes or for

any other purpose to be approved by the Central Government repayable with or without interest within such period as may be specified on the merits of each case.

Restoration
of property.

8. (1) Any property seized, forfeited, confiscated or attached in the circumstances specified in clause (c) of section 3 shall be liable to restoration together with the income, if any, received therefrom by the then State Governments, native states or the Central Government since the date of such seizure, forfeiture, confiscation or attachment.

(2) Where any such property shall have been sold, only the sale proceeds thereof shall be restored without any interest and after deducting actual expenses of sale, if any.

(3) Any restoration under this section shall be ordered by the Central Government only in favour of the political sufferers themselves or in favour of their dependents or in favour of such of their heirs as are not collaterals or other distant relations.

(4) The Government may in its discretion—

(a) make *ex gratia* payments not exceeding one thousand rupees in any one case to political sufferers by way of compensation for loss of or damage to their properties caused by any of the circumstances mentioned in clause (c) of section 3, or

(b) advance to them secured or unsecured loans of not more than two thousand rupees in any one case repayable with or without interest within such period as may be specified in the peculiar circumstances of each case:

Provided that no such payment shall be made and no such loan shall be advanced if such property has since passed hands.

Refund of
fines.

9. Fines including collective and punitive fines imposed during or for an act or offence related to or arising from a political movement, which have been recovered at any time before the passing of this Act, shall be refunded to the persons on whom they were imposed or to their dependents or heirs.

Non-liability
for payment
of school or
college fees.

10. Minor children and grand children of political sufferers mentioned in sections 5 and 6 shall not pay fees in schools and colleges.

Relaxation
of restrictions
on entry into
Government
service.

11. (1) No conviction for any offence committed in connection with or in furtherance of a political movement shall constitute a bar to appointment in any Government service.

(2) Participation in a political movement shall be regarded as an additional qualification and, other things being equal, preference will be accorded to candidates who took part in any such movement.

5 (3) A candidate who has taken part in a political movement and has either been—

(a) debarred from or refused admission to a competitive examination or interview held by a Public Service Commission or other authority appointed by the Government for the purpose on account of his activities connected with a political movement,
10 or

(b) imprisoned or detained in jail on account of such activities, merely preventing his candidature for such examination or interview, will be allowed one chance to appear at any such examination or interview, if he is not over thirty-five years of
15 age on the date of application for such post.

12. (1) A person who lost Government service in the circumstances specified in clause (d) of section 3 will be eligible to re-employment in Government service if he is below fifty-five years of age. Employment in Government service.

20 (2) Such person may be granted with retrospective effect from the date of the termination of his service such proportionate pension or gratuity or both as would have been admissible to him on that date according to the rules to which he was then subject as if he had been compulsorily retired from that date on grounds of ill-health.

25 (3) A civil pensioner whose pension was forfeited in any of the circumstances specified in clause (d) of section 3 shall be restored his pension with retrospective effect from the date on which the forfeiture took effect.

(4) If a person who lost Government service in the circumstances
30 specified in clause (d) of section 3 has since died or is more than fifty-five years of age or has become infirm and unfit for Government service, the Central Government or the State Government may provide suitable employment in Government service to any two of his dependents or if there be no dependents to any one of his
35 heirs if it is satisfied of the existence of an acute distress for want of such employment.

13. The Government may, if it is satisfied that a political sufferer Land grants. who had to give up his profession, calling or studies on account of his activities connected with a political movement or imprisonment
40 or detention in jails on grounds connected with political movement

desires to resort to agriculture, grant him land free of any premium or other charge not exceeding 25 bighas of cultivable lands or 50 bighas of unreclaimed lands, whether in lieu of or in addition to any other aid under this Act with a view to facilitate his settling down as an agriculturist.

5

Presentation
of applica-
tion for aid.

14. The application for aid under this Act shall, without any limit as to time, be presented by the claimant to the Chief Minister of the State to which the applicant belongs.

Power to
make rules.

15. The State Government may, by notification in the Official Gazette, provide such rules for all or any of the following matters, 10
namely,—

- (a) form of application,
- (b) production of documentary evidences,
- (c) methods of enquiry,
- (d) procedure of appeal in case of rejection of claims, and 15
- (e) any other matter which has to be or may be prescribed.

STATEMENT OF OBJECTS AND REASONS

A comprehensive Bill for granting aid to political sufferers or their dependents who are in distress, has been overdue. Some States have granted aids to such persons; but it has not been found adequate or comprehensive enough to cover all deserving cases according to a basic standard or principle nor is there any provision at all in some States.

This Bill aims at ameliorating the distress of the political sufferers or their dependents.

NEW DELHI;

SATIS CHANDRA SAMANTA.

The 27th April, 1962.

FINANCIAL MEMORANDUM

The Bill envisages aid and loans to the political sufferers and hence involves some expenditure. No exact estimate is possible now of the total amount required for recurring expenditure. The amount to be spent as lumpsum grants cannot be precisely estimated beforehand as it depends on the number of claimants and their

The delegation of legislative power is thus of a normal character.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The matters in respect of which rules may be made by State Governments have been prescribed in Section 15 of this Bill. All these matters are of a routine or administrative nature.

The delegation of legislative power is thus of a normal character,

BILL NO. 45 OF 1962

A Bill further to amend the Hindu Marriage Act, 1955.

BE it enacted by Parliament in the Thirteenth⁴ Year of the Republic of India as follows:—

Short title
and com-
mencement.

1. (1) This Act may be called the Hindu Marriage (Amendment) Act, 1962.

(2) It shall come into force at once.

5

Amendment
of Section
23.

2. In section 23 of the Hindu Marriage Act, 1955, after sub-section 25 of 1955.
(2), the following sub-section shall be inserted, namely:—

“(3) In any proceedings under this Act, whether defended or not, if the court comes to the finding that the ground of the petition is the ground specified in clause (f) of sub-section (1) of section 10, or in clause (i) of sub-section (1) of section 13 and that such ground is false, it shall grant damages by decree in favour of the person defamed thus in the same proceedings upto a maximum of five thousand rupees, whatever be the fate of the petition on other grounds.”

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STATEMENT OF OBJECTS AND REASONS

It has been observed that false and frivolous allegation of the nature mentioned in clause (f) of sub-section (1) of section 10, or in clause (i) of sub-section (1) of section 13 of the Hindu Marriage Act, 1955 are made in the petition under this Act to coerce or defame the other party, which ultimately fail but cause harm to the reputation and character of the aggrieved party.

A deterrent is needed to the making of such false and frivolous allegations, and the only way is to vest the Courts with power to grant damages, where such allegations prove false, whatever the fate of the petition be on other grounds.

Hence this Bill.

NEW DELHI;
the 27th April, 1962.

J. B. S. BIST.

M. N. KAUL,
Secretary.

